

VINAY K. GUPTA,

Plaintiff,

- against -

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE

07 Civ. 2805 (JCF)

MEMORANDUM
AND ORDER

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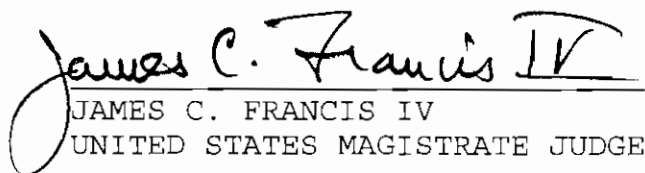
During the course of briefing of dispositive motions in this Social Security case, I granted the plaintiff the opportunity to submit a surreply and gave him until March 14, 2008 to do so. On March 7, 2008, however, I issued a Memorandum and Order granting the Government's motion for judgment on the pleadings, and judgment was entered on March 11, 2008. When the plaintiff brought to my attention the fact that I had failed to wait for his submission, I permitted him to present his surreply and indicated that I would consider it as a motion to vacate the judgment. The plaintiff then submitted his surreply on March 28, 2008.

I erred in deciding the pending motion prior to receiving the plaintiff's surreply. Therefore, the judgment entered on March 11, 2008 is vacated pursuant to Rule 60(b)(1) of the Federal Rules of Civil Procedure.

However, having now fully considered the surreply, I find no

reason to alter the conclusions that I reached in the Memorandum and Order dated March 7, 2008. Therefore, the Government's motion for judgment on the pleadings is once again granted for the reasons stated in that opinion, and the Clerk of Court is respectfully requested to enter a new judgment and close the case.

SO ORDERED.


JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE

Dated: New York, New York
April 2, 2008

Copies mailed this date:

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